

**ROSALINA ELISAN, GUILLERMO ELISAN, PURITA ELISAN,
LEOPOLDO ELISAN, THELMA ELISAN AND FEDERICO ELISAN,
PLAINTIFFS-APPELLEES, VS. DOMINGO ADO,
DEFENDANT-APPELLANT.**

Ponente: INTING, J.

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INTING, J.:

Before Us is an Appeal[1] filed by Domingo Ado (Ado) assailing the Decision[2] of Branch 24, Regional Trial Court (RTC), Koronadal City, ordering him, among others, to surrender possession of a parcel of land in the complaint for Annulment of Sale, Recovery of Possession and Damages filed against him by the plaintiffs-appellees, the dispositive portion of which states:

WHEREFORE, convincing and preponderance of evidence having been shown by the plaintiffs, judgment is hereby rendered:

(a)

declaring plaintiffs as the true and absolute owner of the remaining 30,273 square meter portion of Lot No. 193-E-8 (LRC) Psd-182952;

(b)

ordering defendant to surrender and return possession of the 30,273 square meter portion to plaintiffs;

(c)

directing defendant to give/deliver plaintiffs 3,240 sacks (at 50 kilos) of palay representing plaintiffs' share from the harvest since 1982 until 2009 or for defendant to pay its price at the present market rate of P700,00 (sic) or a total P2,268,000.00 with interest at the legal rate until fully paid;

(d)

ordering defendant to pay plaintiffs P50,000.00 as moral damages; and to pay the cost of the suit.

SO ORDERED.

The facts of the case are as follows:

Valeriano Elisan (Valeriano) is the registered owner of a parcel of land with an area of 60,547 square meters more or less.[3] Valeriano died on August 11, 1978.[4]

Sometime in March 1983, Coronacion Frugalidad (Coronacion), wife[5] of Valeriano, sold 3 hectares of the land to Ado.[6] About 5 months later or in August of the same year, Coronacion died.[7]

Alleging that: (1) the area sold by Coronacion exceeded her share[8]; and that (2) Ado has been in possession of the entire land taking all the produce therein to their damage and prejudice[9], plaintiffs-appellees, children of Valeriano, instituted an action for Annulment of Sale, Recovery of Possession and Damages against Ado. During the trial, Federico Elisan testified that Coronacion is only a common law wife of Valeriano.[10] He also testified that the owner of the one-half portion of the property of his father is Ado.[11] He further testified that Ado did not give them any share of the produce of the other half of the property.[12]

In his Answer, Ado alleged that portion sold to him by Coronacion was her conjugal share and that the plaintiffs-appellees are not the real-parties-in-interest to institute the complaint.[13]

After the pre-trial conference and upon motion of Ado, the RTC dismissed the complaint as to the 3-hectare portion sold by Coronacion to Ado.[14] The RTC ruled that the sale has been admitted by the plaintiffs-appellees and consequently, there is no genuine issue as to the area sold.[15] Plaintiffs-appellees filed their notice of appeal to the order of the RTC.[16] The appeal was however dismissed and the dismissal became final and executory on November 12, 1987.[17]

The RTC ruled against Ado finding that: (1) Coronacion was not married to Valeriano since she was married to another man and consequently (2) Coronacion has no legal interest over the parcel of land sold to Ado.[18] The trial court further ruled that the other half of the contested property also belongs to the plaintiffs-appellees and ordered him to pay damages.[19]

Aggrieved, Ado filed the instant appeal and raised the following errors:

I.

THE LOWER COURT ERRED IN DECLARING THAT CORONACION FRUGALIDAD ELISAN AND VALERIANO ELISAN WERE NEVER MARRIED, THUS CORONACION HAS NO RIGHT OVER THE PROPERTY OWNED BY THE LATE COUPLE;

II.

THE LOWER COURT ERRED IN DECLARING THE PLAINTIFFS (APPELLEES) AS THE TRUE AND ABSOLUTE OWNER OF THE REMAINING 30,273 SQUARE METERS PORTION OF LOT NO. 193-E-8 (LRC) PSD-1882952 AND ON DEFENDANT (sic) TO SURRENDER AND RETURN POSSESSION THEREOF;

III.

THE LOWER COURT ERRED IN DIRECTING THE DEFENDANT TO GIVE/DELIVER THE SHARE FROM THE HARVEST AMOUNTING TO P2,268,000.00, CONSIDERING THAT THE PLAINTIFFS ARE NOT THE RIGHTFUL OWNERS OF THE SAME, THEY DID NOT BEING THE RELATIVE NEAREST IN KIN TO CORONACION FRUGALIDAD, AND THE GRANT OF MORAL DAMAGES.

Our Ruling

The appeal is partly meritorious.

Federico testified that his father Valeriano and Coronacion were not married, to wit:[20]

Q

:

Is Valeriano Elisan married to Coronacion Ado Elisan?

A

:

No Sir.

x x x

Q

:

You said your father is married to Coronacion Ado, did they have a child?

A

:

She is only the common law wife of my father.

x x x

Q

:

How did your father acquire this land?

A

:

We were recruited by the government in the year 1939 in Iloilo to settle in this land here in Mindanao and Coronacion left her husband went with my father and lived together here in Mindanao.

On the basis of that testimony, the RTC ruled that Coronacion and Valeriano are not married and hence Coronacion has no legal right over the disputed property.[21]

However, Rule 131(3)(aa) provides for the disputable presumption that “a man and a woman deporting themselves as husband and wife have entered into a lawful contract of marriage.”

“The rule is settled that every intendment of the law or fact leans toward the validity of the marriage, the

indissolubility of the marriage bonds. The courts look upon this presumption with great favor. It is not to be lightly repelled; on the contrary, the presumption is of great weight.[22]”

The presumption however can be contradicted and overcome by other evidence. But the lone testimony of Federico absent any other proof is not sufficient to overcome the presumption. His own complaint acknowledged Coronacion as the wife of his father when it: (1) clearly stated that “when plaintiffs' father died he was also survived by his wife Coronacion Frugalidad who also died intestate in August 1983 at Koronadal, South Cotabato without any compulsory heir[23]” and (2) when it stated that “the area of three (3) hectare (sic) allegedly sold to defendant Domingo Ado by Coronacion Frugalidad exceeded her share in the inheritance of Valeriano Elisan because under the law of succession, the share of the surviving spouses (sic) is equivalent to the share of each legitimate child xxx.[24]” The certificate of title of the disputed property also states that “Valeriano Elisan, xxx, married to Coronacion Frugalidad xxx.[25]” It may also be noted that Coronacion and Valeriano depicted themselves as husband and wife by living together since 1939 until the death of Valeriano.

Consequently, absent any piece of evidence to prove the allegations of the plaintiffs-appellees that Coronacion was married to another man and that their father was not married to Coronacion, the presumption of marriage of Valeriano and Coronacion shall subsist. “In civil cases, he who alleges a fact has the burden of proving it by a preponderance of evidence. It is incumbent upon the party claiming affirmative relief from the court to convincingly prove its claim. Bare allegations, unsubstantiated by evidence are not equivalent to proof under our Rules. In short, mere allegations are not evidence.[26]”

Since the cohabitation of Valeriano and Coronacion enjoys the presumption of marriage, part of the disputed property clearly belongs to Coronacion as her conjugal share. It must be stressed that the disputed property is over 60,000 square meters; and that Coronacion is not the biological mother of the plaintiffs-appellees. Thus, upon the death of Valeriano, 50% of the property belongs to the compulsory heirs of Valeriano while the other 50% is the conjugal share of Coronacion. She then sold her conjugal share of 3 hectares to Ado. Consequently, the sale she made to Ado is valid. The RTC even ruled on the validity of this sale. Plaintiffs-appellees filed their notice of appeal to the order of the RTC.[27] The appeal was however dismissed and the dismissal became final and executory on November 12, 1987.[28] It should also be stressed that Coronacion is also a compulsory heir of Valeriano since under the law[29], the compulsory heirs include the legitimate children and the surviving spouse. Consequently, she also has a share of the 50% portion of the disputed property, in addition to her conjugal share of 50%.

The trial court found that Ado is not only possessing the area sold to him but also the other half of the disputed property as the appointed administrator thereof since March 1982 by virtue of a Special Power of Attorney executed by Coronacion before her death[30]. Federico testified that Ado never gave them their share of the produce of the land.[31] Ado's argument, on the other hand, rests on his allegation that the entire property is the conjugal share of Coronacion.[32] Since half of the property belongs to the compulsory heirs of Valeriano, Ado has no right to: (1) appropriate for himself the produce of this portion; and (2) possess and occupy the property without any authority from the owners. Consequently, Ado must give to the compulsory heirs their share of the produce of the land and return the possession of the property to them.

The RTC ruled that Ado must pay plaintiffs-appellees, as their share of the remaining 3 hectares, an amount of over more than two (2) million pesos on the basis of the testimony of Federico that the disputed portion yield 160 sacks per cropping on a twice a year cropping.[33] This testimony is however without any proof. No receipt or any other documentary evidence to prove this allegation of 160 sacks per cropping. It may be noted that the witness of Ado testified that “Mansueto Lamera and a certain Brigido[34]” are tenants to this portion of the land. Sometime in August 1984, Lamera and Brigido each deposited 19 and 10.5 sacks of palay (valued at P2,969.15

and P1,595.95), respectively, to Acting Barangay Captain Mapanao, as landlord's share, pursuant to an order of the RTC.[35] As found by the trial court, the practice is 1/3 for the landlord and 2/3 for the tenants.[36] Based on this deposit, the total of 29.5 sacks as 1/3 of the total produce of that cropping cannot, by simple mathematical computation, result to the allegation of 160 sacks per cropping. For the succeeding years, there is nothing to show the number of sacks harvested from the disputed property.

The deposits made by Lamera and Brigido clearly belong to the compulsory heirs of Valeriano, herein petitioners as his children and the compulsory heir of the late Consolacion. Sometime in December 1984, Ado filed an urgent motion that the cash equivalent of these deposits be delivered to him[37], which motion was approved[38] by the RTC. Thus, Ado must return the amount to the compulsory heirs of Valeriano. He has no right whatsoever to these deposits.

For the second cropping of 1984 until the decision of the RTC in 2010, there is no proof of the produce of the land. Consequently, the award of over two (2) million pesos must be deleted. Though this Court recognizes that the plaintiffs-appellees suffered some loss because they are not in possession of the disputed property and also because Ado refuses to give them their share of the produce of the land, this Court will however not speculate on the total harvest of the disputed property and will not speculate on the price of each sack of palay from 1984 until 2010. The Supreme Court once held[39]:

(T)he rule is long and well settled that there must be pleading and proof of actual damages suffered for the same to be recovered. In addition to the fact that the amount of loss must be capable of proof, it must also be actually proven with a reasonable degree of certainty, premised upon competent proof or the best evidence obtainable. The burden of proof of the damage suffered is, consequently, imposed on the party claiming the same who should adduce the best evidence available in support thereof, like sales and delivery receipts, cash and check vouchers and other pieces of documentary evidence of the same nature. In the absence of corroborative evidence, it has been held that self-serving statements of account are not sufficient basis for an award of actual damages. Corollary to the principle that a claim for actual damages cannot be predicated on flimsy, remote, speculative, and insubstantial proof, courts are, likewise, required to state the factual bases of the award.

However, temperate damages may be awarded. The disputed property is 3 hectares. In 1984 it produced at least 88 sacks[*] of palay in one cropping. For over 20 years, plaintiffs-appellees have been deprived of their share in the produce of the land. Consequently, an award of P500,000.00 as temperate damages to plaintiffs-appellees is proper.

Anent the award of moral damages, this Court finds no reason to disturb the ruling of the RTC.

WHEREFORE, the instant appeal is partly Granted. The Decision of the Regional Trial Court is Affirmed but Modified as follows:

1. Plaintiffs-appellees and the heir of Coronacion Frugalidad, as compulsory heirs of the late Valeriano Elisan, are the owners of the undivided 30,273 square meter portion of Lot No. 193-E-8 (LRC) Psd-182952;
2. Domingo Ado shall surrender and return possession of the 30,273 square meter portion to the compulsory heirs of Valeriano Elisan;
3. Domingo Ado shall deliver to the compulsory heirs of Valeriano Elisan the amounts deposited by Mansueto Lamera and Brigido Valente;
4. Domingo Ado shall pay plaintiffs-appellees the amount of P500,000.00 as temperate damages;
5. Domingo Ado shall pay plaintiffs-appellees the amount of P50,000.00 as moral damages and to pay the cost of

suit.

SO ORDERED.

Camello (Chairperson) and Lopez, JJ., concur.

- [1] Rollo, pp. 24-45
- [2] Rollo, pp. 50-58
- [3] Records, p. 1
- [4] Records, p. 1
- [5] Records, p. 2
- [6] Records, p. 2
- [7] Records, p. 2
- [8] Records, p. 2
- [9] Records, p. 2
- [10] Records, pp. 294 and 295
- [11] Records, p. 294
- [12] Records, p. 295
- [13] Records, pp. 83-84
- [14] Records, pp. 208 and 233
- [15] Records, p. 233
- [16] Records, p. 237
- [17] Records, p. 244
- [18] Rollo, pp. 53-56
- [19] Rollo, pp. 53-57
- [20] Records, pp. 293-295
- [21] Rollo, pp. 53-57
- [22] Sevilla v. Cardenas, G.R. No. 167684, July 31, 2006
- [23] Records, p. 2
- [24] Records, p. 2
- [25] Records, p. 317
- [26] Manaloto et al. v. Veloso III, G.R. No. 171365, October 6, 2010
- [27] Records, p. 237

[28] Records, p. 244

[29] Article 887, Civil Code of the Philippines

[30] Rollo, p. 57

[31] Records, p. 295

[32] Rollo, p. 41

[33] Rollo, p. 57

[34] Records, p. 344

[35] Records, pp. 36-37

[36] Rollo, p. 57

[37] Records, pp. 90-91

[38] Records, p. 106

[39] Oceaneering Contractors (Phils.) Inc. v. Barretto, G.R. No. 184215, February 9, 2011

[*] 29.5 sacks was deposited as landlords share which is $\frac{1}{3}$ hence 29.5 must be multiplied by 3 to get the total produce of the land. ($29.5 \times 3 = 88.5$)

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